

**NOTICE OF PROBABLE VIOLATION  
PROPOSED CIVIL PENALTY  
and  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 19, 2017

Mr. Bruce E. Johnston  
Pacific Operators Offshore LLC  
Vice President, Operations Superintendent  
1145 Eugenia Pl. Ste. 200  
Carpinteria, CA 93013

**CPF 5-2017-7004**

Dear Mr. Johnston:

On several occasions between February 14, 2017 and April 14, 2017, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected the Pacific Operators Offshore LLC's (PACOPS) pipeline system that serves Platform Hogan and the La Conchita Separation Facility in La Conchita, California.

As a result of the inspection, it is alleged that PACOPS has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. **§195.9 Outer continental shelf pipelines.**

**Operators of transportation pipelines on the Outer Continental Shelf must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic maintained near the transfer point. If a transfer point is located subsea, the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to PHMSA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.**

PACOPS, an operator of transportation pipelines on the Outer Continental Shelf,<sup>1</sup> violated 49 C.F.R. § 195.9 by failing to identify on all its respective pipelines the specific points at which operating responsibility transfers to a producing operator. At the time of the field inspection, PHMSA observed no visible marking on the pipe of Platform Hogan identifying the transfer point.<sup>2</sup> In addition, PACOPS could not provide any schematics maintained near the transfer point to depict the transfer point.<sup>3</sup>

2. **§195.440 Public awareness.**

**(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §195.3).**

PACOPS violated 49 C.F.R. § 195.440(a) by failing to implement its written continuing public education program that follows the guidance provided in API 1162. Section 7 of API 1162 discusses program documentation and recordkeeping, recommending that each operator establish policies and procedures necessary to properly document its Public Awareness Program and retain those key records for purposes of program evaluation.<sup>4</sup> PACOPS has

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<sup>1</sup> See 49 C.F.R. § 195.2 (defining Outer Continental Shelf as “all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control”).

<sup>2</sup> See Exhibit A to Violation Report (depicting a photograph of the offshore pipe at Platform Hogan with no marking to identify specific points at which operating responsibility transferred to the producing operator).

<sup>3</sup> See Violation Report at page 7 (noting that at the time of the inspection, PACOPS staff could not identify any schematics to indicate transfer points).

<sup>4</sup> API 1162 at 26.

incorporated much of Section 7 into its own program. Specifically, PACOPS's Public Awareness Plan, Section 12 - Documentation states, in pertinent part:

The Company shall collect and retain documentation of the public awareness program. These records demonstrate that the Company's program is in conformance with these procedures...<sup>5</sup>

PACOPS's Public Awareness Plan, Section 12.2 – Other Documentation Records, lists examples of documentation records, including: “communication materials provided to each stakeholder audience (e.g. brochures, mailings, letters, etc.); lists, records, or other documentation of stakeholder audiences with whom the Company has communicated (e.g. contact mailing rosters); implementation dates; postage receipts; response cards; audience contact documentation (e.g. sign-in sheets, invitation lists, etc.); program evaluations, including current results, follow-up actions and expected results; [and] program enhancement(s).”<sup>6</sup>

Finally, PACOPS's Public Awareness Plan, Section 12.3 – Record Retention requires retention of records for “a minimum of five (5) years, or as defined in the Company's public awareness program section #12.5, whichever is longer. Record retention shall include: lists, records, or other documentation of stakeholder audiences with whom the Company has communicated; copies of all materials provided to each stakeholder audience; [and] all program evaluations, including current results and follow-up actions.”<sup>7</sup>

At the time of the inspection, PACOPS could not provide records to demonstrate compliance with its public awareness program.<sup>8</sup> By failing to collect and retain documentation of its public awareness program pursuant to its own written procedures, as outlined above, PACOPS failed to implement its written continuing public education program in violation of 49 C.F.R. § 195.440(a).

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<sup>5</sup> See Exhibit B to Violation Report at 2 (noting that “the written program shall include the following: [a] statement of management commitment to achieving effective public/community awareness; [a] description of the roles and responsibilities of personnel administering the program; [i]dentification of key personnel and their titles; [i]dentification of the media and methods of communication to be used in the program; [d]ocumentation of the frequency and the basis for selecting that frequency for communicating with each of the targeted audiences; [t]he process for identifying program enhancements beyond the baseline program, including the basis for implementing such enhancements; [and] [t]he program evaluation process, including the evaluation objectives, methodology to be used to perform the evaluation and analysis of the results, and criteria for program improvement based on the results of the evaluation”).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> See Violation Report at 15 (noting that PACOPS staff could not find any records at the time of the inspection).

3. **§195.452 Pipeline integrity management in high consequence areas.**  
**(b) What program and practices must operators use to manage pipeline integrity? Each operator of a pipeline covered by this section must:**  
**(5) Implement and follow the program.**

PACOPS did not implement and follow its Integrity Management Program in violation of 49 C.F.R. § 195.452(b)(5). PACOPS’s Integrity Management Plan (IMP), Section 1.2 - Identification of HCA Segments and Documentation states, in part:

All reviews to identify HCAs will be fully documented. This means methods and assumptions will be included where applicable, especially for exceptions. Justification for exceptions will also include HVL properties, topographical considerations, type of HCA, and significant of consequences. See section [1.4]1.3 for a full list of factors to consider in determining if a segment could affect an HCA.

The Company intends to utilize a Graphic Information System (GIS) as well as calculations of dispersion modeling distances to identify pipeline segments that could affect HCAs. Also, local knowledge and experience will be used in the determination of HCAs. These methods are discussed below. In the IMP records binder/files is a listing of the HCAs as a result of this review.<sup>9</sup>

At the time of the inspection, PACOPS provided a copy of its 2016 Annual Pipeline Assessment Review, which stated that “[s]ince the onshore portion of the oil pipeline lies within 220 yards of the mean high tide line, PACOPS elects to conservatively define that both segments of its pipeline reside within HCA.”<sup>10</sup> Although PACOPS concluded that its onshore pipe resides in an HCA, PACOPS could not provide records to show the methods, assumptions, or calculations of dispersion modeling distances used in determining that its pipeline segments could affect HCAs as required by Section 1.2 of its IMP.<sup>11</sup>

4. **§195.583 What must I do to monitor atmospheric corrosion control?**  
**(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:**

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

<sup>9</sup> Exhibit D to Violation Report at 1.

<sup>10</sup> Exhibit E to Violation Report.

<sup>11</sup> See also 49 C.F.R. § 195.452(l)(1) (requiring operators to “maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart” that includes documents to support decisions and analyses).

PACOPS did not inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion in violation of 49 C.F.R. § 195.583(a). Specifically, PACOPS's onshore pipe is required to be inspected at least once every 3 calendar years, but with intervals not exceeding 39 months. At the time of the inspection, PACOPS provided inspection records to PHMSA showing that the onshore DOT pipe at La Conchita Facility had been inspected for atmospheric corrosion in 2008 and 2010.<sup>12</sup> However, PACOPS could not provide records or other substantiating evidence to demonstrate that atmospheric corrosion inspections were conducted in 2013 and 2016.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$15,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 2	\$15,500

Warning Items

With respect to Item 4, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1, 2 and 3, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Pacific Operators Offshore Operator LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you

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<sup>12</sup> Exhibit F to Violation Report.

must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2017-7004** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Huy Nguyen  
Acting Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*  
*Response Options for Pipeline Operators in Compliance Proceedings*

cc: PHP-60 Compliance Registry  
PHP-500 M. Garcia ((#156051))

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to the Pacific Operator Offshore LLC (PACOPS) a Compliance Order incorporating the following remedial requirements to ensure its compliance with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to not having a visible marking on the pipe to indicate transfer point, PACOPS must identify on all its outer continental shelf pipelines the specific points at which operating responsibility transfers to a producing operator by durable marking. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic maintained near the transfer point. Pictures or any other documentation to show compliance of 49 C.F.R. § 195.9 must be submitted to PHMSA within 30 days after receipt of the Final Order.
2. In regard to Item 2 of the Notice pertaining to not implementing its written continuing public education program, PACOPS must submit records such as stakeholder lists, brochures, or pamphlets indicating message, documentation of sent messages, maps, procedures, plans, evaluation results, follow-up actions, and other relevant documentation that supports compliance to PHMSA within 180 days after receipt of the Final Order.
3. In regard to Item 3 of the Notice pertaining to not having records to show the methods, assumptions, or calculations of dispersion modeling distances used in determining pipeline segments that could affect HCAs, PACOPS must submit these records for the onshore portion of the oil pipeline from Platform Hogan to La Conchita Onshore Processing Facility to PHMSA within 180 days after receipt of the Final Order.
4. It is requested (not mandated) that PACOPS maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Huy Nguyen, Acting Director, Western Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.